



Department of Health  
Environmental Management Division  
Clean Water Branch

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<http://www.hawaii.gov/health/environmental/water/cleanwater/index.html>

# Clean Water Branch

Responsible for implementing statewide water pollution control programs

- ◆ National Pollutant Discharge Elimination System (NPDES) Permit
- ◆ Section 401 Water Quality Certification (WQC)
- ◆ Polluted Runoff Control
- ◆ Water Quality Monitoring



# National Pollutant Discharge Elimination System (NPDES) Permit Program



# National Pollutant Discharge Elimination System (NPDES)

- ◆ NPDES is a federal permit program
- ◆ Hawaii is one of the EPA delegated States to administer the NPDES permit program
- ◆ Clean Water Branch is responsible for implementing the program



# NPDES

## Federal Law and Regulation

- ◆ Section 402 of Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (Commonly referred to as Clean Water Act)
- ◆ 40 Code of Federal Regulations (CFR)



# NPDES

## State Law and Regulation

- ◆ Hawaii Revised Statutes, Chapter 342D, Water Pollution
- ◆ Hawaii Administrative Rules, Title 11, Chapter 54, Water Quality Standards
- ◆ Hawaii Administrative Rules, Title 11, Chapter 55, Water Pollution Control
- ◆ [http://www.capitol.hawaii.gov/hrscurrent/Vol06\\_Ch0321-0344/HRS0342D/](http://www.capitol.hawaii.gov/hrscurrent/Vol06_Ch0321-0344/HRS0342D/)
- ◆ <http://www.hawaii.gov/health/about/rules/admrules.html>



# Phase II Storm Water Rules

February 7, 2000

- ◆ Conditional “No Exposure” exclusion

March 10, 2003

- ◆ Small Municipal Separate Storm Sewer Systems (Small MS4)
- ◆ Construction activities 1 to 5 acres
- ◆ Municipally-Operated industrial activities



# When is an NPDES permit required?

- ◆ An NPDES permit is required when:
  - a discharge of pollutant;
  - from a point source;
  - into State Waters.





# Types of NPDES Permit

- ◆ General permit
- ◆ Individual permit



# General Permit

- ◆ Adopted as rules (Chapter 11-55)
- ◆ Similar nature of discharge
- ◆ Minor and Non-controversial
- ◆ Discharge initially enters either Class 2, Inland water or Class A, Marine water
- ◆ 30 days to process (with complete Notice of Intent)
- ◆ \$500 filing fee
- ◆ Good up to five (5) years



# To streamline NPDES permit process

- ◆ Hawaii adopted 11 general permits, three (3) of the general permits are related to storm water discharges.



# NPDES General Permit

Appendix B - Storm water associated with industrial activities

Appendix C - Storm water associated with construction activities

Appendix D - Treated effluent from leaking Underground Storage Tank remedial activities

Appendix E - Once through cooling water less than one (1) million gallons per day



# NPDES General Permit (continued)

Appendix F - Hydrotesting water

Appendix G - Construction dewatering

Appendix H - Treated effluent from  
petroleum bulk stations and terminals

Appendix I - Treated effluent from well  
drilling activities



# NPDES General Permit (continued)

Appendix J – Occasional or Unintentional Discharges from Recycled Water Systems

Appendix K – Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems

Appendix L – Discharges of Circulation Water from Decorative Ponds or Tanks



# Chapter 11-55, Appendix C

## NPDES General Permit Authorizing Discharges of Storm Water Associated With Construction Activity



# When is an NPDES permit required for construction activities?

- ◆ An NPDES permit is required for any construction activities, including clearing, grading, and excavation, that result in the disturbance of **one acre or more** of total land area under a larger common plan of development or sale, **and**
- ◆ **Prior to commencement** of construction activities.





# County-Approved Erosion and Sediment Control Plan

- ◆ A county-approved erosion and sediment control plan as appropriate for the activity and a schedule for implementing each control shall be submitted to the director **with the notice of intent or 30 days before the start of construction activities.**
- ◆ Construction may start before the end of the 30 days period as soon as the department accepts the county-approved erosion and sediment control plan.



# Site-Specific Construction Best Management Practices Plan

- ◆ A site-specific construction Best Management Practices (BMP) plan shall be submitted to the director with the notice of intent or 30 days before the start of construction activities.
- ◆ Construction may start before the end of the 30 days period as soon as the department accepts the plan.



# NOI Submittal to Department of Land and Natural Resources, State Historic Preservation Division (SHPD)

- ◆ New NOI is required to submit to SHPD for their review and comment.
- ◆ Renewals and administrative extensions of NGPCs do not require SHPD review.
- ◆ Failure to comply is a ground for the DOH to find the NOI incomplete and suspend processing or return the NOI.



# Federal Requirements

## ◆ Clean Water Act, Subsection 401(a):

- ◆ “Any **applicant** for a **Federal license or permit** to conduct any activity including, but not limited to, the construction or operation of facilities, which may **result** in any **discharge** into the navigable waters , shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, , or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of this Act. . .”

[40 CFR 121.16]

[33 CFR 325.2.b.1]



# HRS, 342D-53

◆ **[§342D-53] Certifying agency.** The director may act as a certifying agency, as defined in 40 Code of Federal Regulations 121.1(e) (1985). [L 1989, c 212, pt of §2]



# What is "Certification"

◆ "Water quality certification" or "certification" means a statement which asserts that a proposed discharge resulting from an activity will not violate applicable **water quality standards**. A water quality certification is required by Section 401 of the Act from any applicant for a federal license or permit to conduct any activity, including the construction or operation of facilities which may result in any discharge into navigable waters.

◆ [HAR, 11-54-9.1]



# Objective

- ◆ Ensure that CWA, Section 404 and all other Federally permitted activities will not adversely impact the existing uses, designated uses, and applicable water quality criteria of the receiving State waters.



# Who to Contact?

- ◆ Contact Clean Water Branch at  
(808) 586-4309; or
- ◆ Contact Regulatory Branch of the  
Honolulu Engineer District (HED), U.S.  
Army Corps of Engineers (COE) at  
(808) 438-9258





# Conditionally Certified DA Permits

## ◆ 16 Nationwide Permits (NWP)

Nos.: 3, 4, 5, 6, 12, 13, 14, 16, 18, 19, 22, 25,  
31, 33, 36, 38

[File No. 200100500, Expires March 19, 2007]

[DOH File No. WQC 0000543, Expires on March 19, 2007]

## ◆ One (1) State Programmatic General Permits (SPGP)

[ File No. SPGP 2001-01, Expires April 25, 2010]

[DOH File No. WQC 0000536, Expires on Feb. 1, 2008]



# Conditionally Certified NWP's

- ◆ **NWP 3** Maintenance
- ◆ **NWP 4** Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
- ◆ **NWP 5** Scientific Measurement Devices
- ◆ **NWP 6** Survey Activities



# Conditionally Certified NWP

- ◆ **NWP 12** Utility Line Activities including construction, maintenance, or repair of utility lines (excluding outfall and intake structures) that cross State waters and the associated excavation, backfill, or bedding for the utility lines, provided there is no change in preconstruction contours. This WQC covers mechanized land clearing necessary for the installation of utility lines crossing State waters, including overhead utility lines, provided the cleared area is kept to the minimum necessary, preconstruction contours are maintained, and the Nationwide Permit permittee (Permittee) complies with requirements established for the storm water discharges associated with construction activities specified in HAR, Chapter 11-55, entitled "Water Pollution Control." However, access roads (temporary or permanent), utility line substations, foundations for overhead utility line towers, poles, and anchors are excluded from the WQC coverage for this Nationwide Permit.



# Conditionally Certified NWP

- ◆ **NWP 13** Bank Stabilization (except for bank stabilization activities in excess of 500 feet in length, or greater than an average of one (1) cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line)
- ◆ **NWP 14** Linear Transportation Projects (except for linear transportation activities located in areas that will interfere or affect the existing or designated uses for the affected water body as specified in HAR, Section 11-54-1 and Section 11-54-3.)



# Conditionally Certified NWP

- ◆ **NWP 22** Removal of Vessels
- ◆ **NWP 25** Structural Discharges
- ◆ **NWP 31** Maintenance of Existing Flood Control Projects
- ◆ **NWP 33** Temporary Construction, Access, and Dewatering



# Conditionally Certified NWP's

- ◆ **NWP 36** Boat Ramps
- ◆ **NWP 38** Cleanup of Hazardous and Toxic Waste



# Blanket Certification Notification Requirements

- ◆ General information regarding the Owner(s), Contractor(s), Location (including TMKs and Coordinates), DA File number, Scope of Work, Quality and Quantity of the proposed discharges, Authorization of Representative
- ◆ Site-specific Best Management Practices Plan (including disturbed site restoration plan)
- ◆ Applicable Monitoring and Assessment Plan
- ◆ Mitigation/Compensation Plan (special aquatic site including wetland)
- ◆ Additional information



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